

CV 12 6388

FILED

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U.S. DISTRICT COURT E.D.N.Y.

★ DEC 27 2012 ★

SUMMONS ISSUED
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BERNARD KLEIN
on behalf of himself and
all other similarly situated consumers

LONG ISLAND OFFICE

Plaintiff,

-against-

I.C. SYSTEM, INC.

Defendant.

MATSUMOTO, J.
GOLD, M.

CLASS ACTION COMPLAINT

Introduction

1. Plaintiff Bernard Klein seeks redress for the illegal practices of I.C. System, Inc. concerning the collection of debts, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA").

Parties

2. Plaintiff is a citizen of the State of New York who resides within this District.
3. Plaintiff is a consumer as that term is defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that Defendant sought to collect from Plaintiff a consumer debt.
4. Upon information and belief, Defendant's principal place of business is located in St. Paul, Minnesota.

5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.
6. Defendant is a “debt collector” as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

Jurisdiction and Venue

7. This Court has federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district.

Allegations Particular to Bernard Klein

9. Upon information and belief, on a date better known by Defendant, Defendant began to attempt to collect an alleged consumer debt from the Plaintiff.
10. On or about December 1, 2012, Defendant sent the Plaintiff a collection letter seeking to collect a balance allegedly incurred for personal purposes.
11. Said letter stated in pertinent part as follows: “If you would like to make a payment arrangement, or settle your account for 50% of the balance, please call us at 866/389-2027. If you choose to settle your account got 50% of the balance, Con Edison will update your credit record that you paid the account in full.”
12. Said language implies that the account has already being reported to national credit reporting agencies when in fact it had not.
13. Said language deceptively implies that Con Edison will make modifications on the plaintiff’s credit record.

14. Said language is confusing to the least sophisticated consumer as to whether the debt has been reported or not.
15. Said language is confusing as to whether it refers to Con Edison's in house credit record or the plaintiff's credit record as set forth in his credit reports.
16. Said language can be interpreted in multiple fashions, one of which is false.
17. Said language is a material misrepresentation.
18. The Defendant's said language was deceptive and misleading, in violation of the FDCPA, 15 U.S.C. §§ 1692e and 1692e(10).

AS AND FOR A FIRST CAUSE OF ACTION

Violations of the Fair Debt Collection Practices Act brought by Plaintiff on behalf of himself and the members of a class, as against the Defendant.

19. Plaintiff restates, realleges, and incorporates herein by reference, paragraphs one (1) through thirteen (18) as if set forth fully in this cause of action.
20. This cause of action is brought on behalf of Plaintiff and the members of a class.
21. The class consists of all persons whom Defendant's records reflect resided in the State of New York and who received a collection letter from Defendant within one year prior to the date of the within complaint up to the date of the filing of the complaint concerning Con Edison; and the Defendant made false representations of credit reporting in violation of 15 U.S.C. §§ 1692e and 1692e(10).
22. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:

- (A) Based on the fact that a form collection letter is at the heart of this litigation, the class is so numerous that joinder of all members is impracticable.
- (B) There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether the Defendant violated the FDCPA.
- (C) The only individual issue is the identification of the consumers who received the collection letters, (*i.e.* the class members), a matter capable of ministerial determination from the records of Defendant.
- (D) The claims of the Plaintiff are typical of those of the class members. All are based on the same facts and legal theories.
- (E) The Plaintiff will fairly and adequately represent the class members' interests. The Plaintiff has retained counsel experienced in bringing class actions and collection-abuse claims. The Plaintiff's interests are consistent with those of the members of the class.
23. A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA. 15 U.S.C. § 1692(k). The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

- If the facts are discovered to be appropriate, the Plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.
25. Collection attempts, such as those made by the Defendant are to be evaluated by the objective standard of the hypothetical “least sophisticated consumer.”

Violations of the Fair Debt Collection Practices Act

26. The Defendant’s actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
27. Because the Defendant violated of the Fair Debt Collection Practices Act, the Plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff, respectfully requests that this Court enter judgment in his favor and against the Defendant and award damages as follows:

- (a) Statutory and actual damages provided under the FDCPA, 15 U.S.C. § 1692(k);
- (b) Attorney fees, litigation expenses and costs incurred in bringing this action; and
- (c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Cedarhurst, New York
December 26, 2012



Adam J. Fishbein, P.C. (AF-9508)

Attorney At Law

Attorney for the Plaintiff

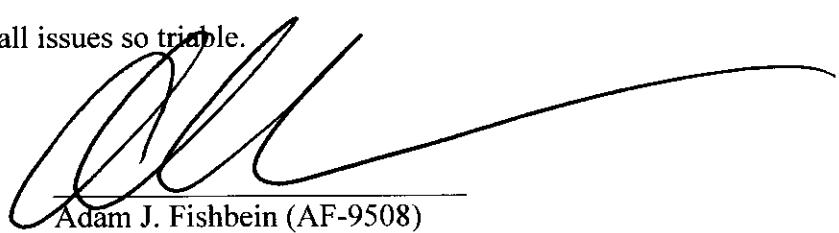
483 Chestnut Street

Cedarhurst, New York 11516

Telephone (516) 791-4400

Facsimile (516) 791-4411

Plaintiff requests trial by jury on all issues so triable.



Adam J. Fishbein (AF-9508)

IC 06598
444 Highway 96 P.O. Box 64437
St Paul, MN 55164-0437

313
Address Service Requested

December 1, 2012

PO Box 6437
St. Paul, MN 55164-0378
Toll-Free No.: 866/389-2027
Mon - Thur 7:00 AM - 9:00 PM CT
Fri 7:00 AM - 5:00 PM CT
Sat 7:00 AM - 2:30 PM CT
Sun 4:00 PM - 8:00 PM CT
www.yourpayment.com



I.C. System Reference Number: 50455239-1-69

RE: Con Edison	\$698.08
Principal Due:	\$698.08
BALANCE DUE:	
Account No: [REDACTED]	

\$0.00 has been Paid Since Placement

[REDACTED]
#BWNPHDV
#5045 5239 7101 2C12#
BERNARD KLEIN
1722 59TH ST
BROOKLYN, NY 11204-2242

Dear Bernard Klein:

Your company's past due balance has been referred by Con Edison with full authority to demand payment.

You may not have intentionally neglected this obligation, but it is seriously overdue and requires your immediate attention.

Our office reports to national credit reporting agencies. This information on your commercial credit report, may seriously affect your company's ability to do business. You have the right to inspect your credit rating, in accordance with federal law.

Remit your check for full payment directly to I.C. System, Inc..

If you would like to make a payment arrangement, or settle your account for 50% of the balance, please call us at 866/389-2027. If you choose to settle your account for 50% of the balance, Con Edison will update your credit record that you paid the account in full.

We are a debt collector attempting to collect a debt and any information obtained will be used for that purpose.

Sincerely,

Beth Brown
Beth Brown
Manager

You may pay online at www.yourpayment.com. Once there, you will need to enter your Reference Number: 50455239-1-69. There are no additional charges for making your payment online.

NOTICE

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

Telephone calls to or from our General Office are randomly monitored by supervisory personnel for business reasons not directly related to your account. Calls may be monitored and recorded for quality assurance.
New York City Department of Consumer Affairs License No. 0908324, 1266437, 1266462, 1266469, and 1270672

2250

0710-System-039658165-ISC-035139

3 WAYS TO PAY: ONLINE AT WWW.YOURPAYMENT.COM, CONTACT US AT 866/389-2027, OR RETURN THIS STUB WITH YOUR PAYMENT. MAKE CHECK PAYABLE TO I.C. System, Inc..

I.C. System Reference Number: 50455239-1-69

Bernard Klein
1722 59th St
Brooklyn, NY 11204-2242

RE: Con Edison	\$698.08
Principal Due:	\$698.08
BALANCE DUE:	
Account No: 68831490300100	

\$0.00 has been Paid Since Placement

[REDACTED]

I.C. System, Inc.
PO Box 64378
Saint Paul MN 55164-0378

07100000069808050455239001690101